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7 Attorneys for Defendant
CHASE BANK USA, N.A.

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 LUCILLE R. ROYSE, individually and on
11 behalf of others similarly situated,

12 Plaintiff,

13 vs.

14 JP MORGAN CHASE BANK,

15 Defendant.

Case No. 11CV2255 LAB CAB

**DEFENDANT CHASE BANK USA, N.A.'S
NOTICE OF MOTION AND MOTION TO
DISMISS CLASS ACTION COMPLAINT**

ORAL ARGUMENT REQUESTED

[Filed Concurrently with Memorandum of
Points and Authorities, and Request for Judicial
Notice]

Hearing

Date: January 23, 2012

Time: 11:15 a.m.

Judge: Larry A. Burns

Courtroom: 9

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1 **PLEASE TAKE NOTICE** that on January 23, 2012, at 11:15 a.m. or as soon thereafter
 2 as this matter may be heard in Courtroom 9 of the United States District Court for the Southern
 3 District of California, located at 940 Front Street, San Diego, California 92101, the Honorable
 4 Larry A. Burns presiding, Defendant Chase Bank USA, N.A. ("Chase"), wrongfully named JP
 5 Morgan Chase Bank, will move, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of
 6 Civil Procedure, for an Order dismissing the Class Action Complaint filed by Plaintiff Lucille
 7 Royse ("Plaintiff") on the grounds that the Court lacks subject matter jurisdiction over the
 8 Complaint, and that it fails to state a claim upon which relief may be granted.

9 First, the Court lacks subject matter jurisdiction over Plaintiff's claim because she has
 10 failed to establish diversity jurisdiction under 28 U.S.C. § 1332. As the party invoking this
 11 Court's jurisdiction, Plaintiff bears the burden of establishing the Court's subject matter
 12 jurisdiction. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857-58 (9th Cir. 2001); *Thompson v.*
 13 *McCombe*, 99 F.3d 352, 353 (9th Cir. 1996). In her Complaint, Plaintiff fails to allege that the
 14 amount in controversy exceeds \$75,000 or \$5,000,000, as required to invoke this Court's
 15 diversity jurisdiction; nor could she, as a review of her allegations demonstrate that the claims do
 16 not come close to meeting these thresholds. Additionally, Plaintiff fails to even plead her own
 17 citizenship. As a result, the Court should dismiss Plaintiff's Complaint with prejudice for lack of
 18 subject matter jurisdiction, pursuant to Rule 12(b)(1).

19 Second, the Court should dismiss Plaintiff's Complaint because she has made no showing
 20 that Chase violated California's Rosenthal Fair Debt Collection Practices Act ("Rosenthal Act"),
 21 Cal. Civ. § 1788 *et seq.* Plaintiff's claim fails because the purportedly false statements in a letter
 22 sent on behalf of Chase to Plaintiff are true and accurate and, even under the least sophisticated
 23 debtor standard, Plaintiff's reading of the statements is idiosyncratic. *See Gonzales v. Arrow*
 24 *Financial Services, LLC*, No. 10-55379, 2011 WL 4430844 (C.A. 9 (Cal.) Sept. 23, 2011).
 25 Accordingly, Plaintiff's Complaint should be dismissed with prejudice, pursuant to Rule 12(b)(6).

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1 This Motion will be based on this Notice; the Memorandum of Points and Authorities in
2 Support of the Motion; Request for Judicial Notice; Chase's Reply papers; the Court's file in this
3 case; all other matters which may be judicially noticed; and other argument and evidence that
4 may be presented at the hearing.

5 Dated: October 28, 2011

MORGAN, LEWIS & BOCKIUS LLP

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8 By /s/ Christina L. Sein

Christina L. Sein

Attorneys for Defendant

CHASE BANK USA, N.A.

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CERTIFICATE OF SERVICE

I hereby certify that on **October 28, 2011**, I electronically filed the foregoing with the Clerk of the Court for the U.S. District Court for the Southern District by using the CM/ECF system. I certify that all participants are registered CM/ECF users and that service was accomplished by the CM/ECF system.

/s/ Christina L. Sein
Christina L. Sein
Attorneys for Defendant
CHASE BANK USA, N.A.